BOARD OF APPEALS for MONTGOMERY COUNTY

Stella B. Werner Council Office Building 100 Maryland Avenue Rockville, Maryland 20850 (240) 777-6600

Case No. A-5706

PETITION OF ALLEN AND SUSAN SNYDER

(Hearing held February 13, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, March 14, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(1). The petitioners propose to construct a covered porch that requires a three (3) foot variance as it is within nine (9) feet of the side lot line. The required setback is twelve (12) feet.

Rick Matus, of Case Design, appeared with the petitioners at the public hearing.

The subject property is Lot 22, Block 12, Burning Tree Estates Subdivision, located at 7616 Arrowood Road, Bethesda, Maryland, in the R-200 Zone (Tax Account No. 00687338).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

- 1. The petitioners propose to construct a covered porch in the southern side yard.
- The petitioner testified that his property is an end lot on Arrowood Road and that the rear yard of the property is very short and narrow. The petitioner testified that the front of the lot slopes upward from the street and the residence is sited back from the slope at the front of the property.
- 3. The petitioner testified that the new construction could not be located in the rear yard because of an existing garage with driveway and an existing in-ground pool. The petitioner testified that the structures were built by the original owner and that the covered porch could not be located elsewhere on the property.
- 4. The petitioner testified that the covered porch would not be visible to the neighboring properties and that the structure would be located in an area the adjoins the golf course. The petitioner testified that he has spoken with his neighbors and that neighbors support the variance request.
- 5. Mr. Matus testified that the siting of the residence and the other existing structures restricts the placement of the covered porch elsewhere on the property.

FINDINGS OF THE BOARD

Based upon the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth is Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioners' lot is similar in size and shape to other lots in the immediate neighborhood, as shown on Exhibit No. 8. The Board further finds that the petitioners' property has no peculiar topographical or other conditions that are not shared by the neighboring properties.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of three (3) feet from the required twelve (12) foot side lot line setback for the construction of a covered porch is denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Allison Ishihara Fultz, seconded by Angelo M. Caputo, with Donna L. Barron and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution. Board member Louise L. Mayer was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr. Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 14th day of March, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.